

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION NO.55 OF 2004

The Associated Cement Cos. Ltd.	..Petitioner.
Vs.	
Associated Cement Staff Union & anr.	..Respondents.

WITH
WRIT PETITION NO.56 OF 2004

The Associated Cement Cos. Ltd.	..Petitioner.
Vs.	
Associated Cement Staff Union & anr.	..Respondents.

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Mr. P. K. Rele, Senior Advocate with Mr. Rajesh Rele i/b Piyush Shah for the Petitioner.(in WP 55/04 and WP 56/04)

Mr. E.P. Bharucha, Senior Advocate with Mr. P.M. Patel for the Petitioner. (in WP 55/04 and WP 56/04)

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WITH
WRIT PETITION NO.1571 OF 2004

Associated Cement Staff Union	..Petitioner.
Vs.	
The Associated Cement Cos. Ltd.	..Respondent.

WITH
WRIT PETITION NO.1653 OF 2004

Associated Cement Staff Union	..Petitioner.
Vs.	
The Associated Cement Cos. Ltd.	..Respondent.

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Mr. E.P. Bharucha, Senior Advocate with Mr. P.M. Patel for the Petitioner. (in WP 1571/04 and WP 1653/04)

Mr. P. K. Rele, Senior Advocate with Mr. Rajesh Rele i/b Piyush Shah for the Respondent.(in WP 1571/04 and WP 1653/04).

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CORAM: DR. D.Y. CHANDRACHUD, J.

28th November, 2006.

P.C. :

After the Petitions have been argued for some time, the learned counsel appearing on behalf of the union and the management have joined in stating before the Court that without the expression of any opinion by the Court on the merits of the reference under Section 10 of the Industrial Disputes Act, 1947 as well as on the question of the maintainability thereof, the award of the Industrial Tribunal dated 15th July, 2003 may be quashed and set aside by consent and the proceedings may be remitted back to the Industrial Tribunal for a fresh adjudication. Accordingly the following order is passed :

- i) The award of the Industrial Tribunal dated 15th July, 2003 is quashed and set aside;
- ii) Reference 10 of 1999 is restored to the file of the Industrial Tribunal for adjudication afresh;
- iii) In the event that the Learned Judge in the Industrial

Court who heard the reference has ceased to hold the office of a Member of the Industrial Tribunal, the President of the Industrial Tribunal shall assign the reference to any other Judge for hearing and for disposing of the reference;

iv) All the rights and contentions of the parties are kept open including the objections of the union in regard to the maintainability of the demands raised by the employer;

v) Upon remand, the Industrial Tribunal shall dispose of the reference on or before 30th June, 2007;

vi) Until the Industrial Tribunal disposes of the reference and for a period of six weeks thereafter, the interim order dated 1st March, 2004 passed by this Court in the present proceedings shall continue to operate. However, the Industrial Tribunal shall not regard this as amounting to any expression of opinion by the Court on the merits of the respective rights and contentions of the parties which shall be heard and adjudicated upon uninfluenced by the interim order which constitutes a working arrangement during the pendency of the proceedings. In the event that there is any delay in the publication of the award beyond the period of six weeks, liberty to the parties concerned to apply before this Court for extension of the interim protection.

The Petitions are accordingly disposed of.